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April 10, 2003

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW, Room TWB-204  
Washington, DC 20554

Re: Application by Qwest Communications International, Inc. for Authorization to Provide In-Region, InterLATA Services in New Mexico, Oregon and South Dakota  
WC Docket No. 03-11

Dear Ms. Dortch:

I am writing in response to Qwest's April 4, 2003 ex parte in the above captioned proceeding. In Qwest's ex parte, it asserts that competitive carriers in New Mexico now serve approximately 300 customers using UNE-P. This information is clearly too little, too late. Qwest admits that it has no direct knowledge of whether the lines at issue are used to provide service to "residential" customers, and that it "derived" this number from an unexplained processes by which Qwest compared the UNE-P telephone numbers to a white pages database. Notably, no backup is provided for these calculations, nor does any Qwest affiant sponsor the accuracy of Qwest's figures.<sup>1</sup> In all events, this 11<sup>th</sup> hour evidence clearly violates the Commission's complete-when-filed rule.

That said, AT&T does believe that such evidence is certainly more relevant to the Track A issue than the PCS data that Qwest has previously relied upon. In contrast, the record is clear that the "Cricket" service cannot be considered a commercial alternative to Qwest's wireline services. In addition, accepting Qwest's sweeping claims about PCS "competition" could have far ranging and negative consequences in other proceedings. Absent express limitations, there would be a real danger that parties would otherwise attempt to misuse any Commission finding that Qwest satisfied Track A on the basis of PCS usage. For example, incumbent LECs could argue that the Commission had effectively found that PCS is seen by most customers as an alternative to wireline local services and that PCS provides effective competition to such wireline local services.

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<sup>1</sup> Likewise irrelevant is Qwest's claim that it has had a decrease in the number of access lines. At a minimum, to be relevant, Qwest would need to show that this decrease was not the result of the sale of exchanges, or cannibalization of *second* lines from Qwest's own DSL service, losses that clearly have little do with residential telephone competition.

Accordingly, if the Commission were to rely to any extent on Qwest's PCS "evidence" in New Mexico in support of a finding of Track A compliance, the Commission should expressly disclaim any finding that the Cricket service in particular or PCS or other wireless offerings in general are considered by most, or even many, consumers to be effective substitutes for local wireline services or that these PCS or other wireless offerings provide effective competition to local wireline offerings. The Commission should also make clear that its findings would not, for example, provide any basis for a BOC to seek relief from dominant carrier status, for any party to seek a change to spectrum cap rules, or as support for Commission approval of license transfers in connection with a proposed merger of wireline carriers.

One electronic copy of this Notice is being submitted to the Secretary of the FCC in accordance with Section 1.1206 of the Commission's rules.

Sincerely,

A handwritten signature in black ink, reading "Amy L. Alvarez". The signature is fluid and cursive, with a large, stylized "A" and "L".

cc: Christopher Libertelli  
Matthew Brill  
Daniel Gonzalez  
Jessica Rosenworcel  
Lisa Zaina  
Kimberly Cook  
Bill Dever  
Janice Myles  
Gary Remondino